KOH KOK ENG v. REGINA

[A. Cr. J. (Murray-Aynsley C.J.) November 18, 1954]

[Singapore — Magistrate's Appeal No. 165 of 1954]

Road Traffic Ordinance, 1941, s. 48(1) — Insurance — Certificate and policy differ — Policy prevails.

The appellant was the owner of a car in respect of which he held a Policy of Insurance. It appeared that one morning a Police patrol in Radio car saw the said car being driven by a female Chinese in an unsteady manner. The Police stopped it and the appellant was found seated beside the female driver who had no licence. He was *inter alia* charged under s. 48(1) of the Road Traffic Ordinance and the Magistrate found that there was sufficient evidence to show that the appellant did permit the female to drive the car while there was not in force in relation to the user of the car by the driver a policy of insurance in respect of 3rd party risks as complied with Part II of the Ordinance. Counsel for the appellant submitted that by the operation of an "exception clause" in the Policy of Insurance by the terms of which the owner was covered unless he knew that the driver was unlicensed the car in question would still be insured against 3rd party risks when driven by any driver who had the consent of the appellant. The Magistrate found that it was not proved that the appellant had given his general consent for the female to drive the car, and convicted the appellant.

On appeal it was argued inter alia: (1) that the appellant did not know that the person he permitted to drive his car did not have a licence; (2) that the person whom he permitted to drive the car told him that she had a provisional driving licence; (3) that the Magistrate erred in rejecting the submission of the operation of the "exception clause" on failure of proof that the appellant had given his general consent for her to drive. The terms of the policy differed from the certificate.

Held: (1) it was not proved that the appellant knew that the female driver was unlicensed; (2) where the certificate and the policy differ the latter prevails.

MAGISTRATE'S APPEAL.

N. A. Christopher for the appellant.

T. A. Mahony (Crown Counsel) for the respondent.

Murray-Aynsley C.J. : — In this case the terms of the policy differed from those of the certificate of insurance. By the terms of the policy the owner was covered unless he knew that the driver was unlicensed, which was not in the case here. Where the certificate and the policy differ the latter prevails. Hence I allowed the appeal.

Appeal allowed.

Solicitors for the appellant: *Christopher & Francis.*

KOH NGEE CHENG v. CHOP SIANG HUAT

[O. C. J. (Knight J.) November 29, 1954]

[Singapore — Suit No. 573 of 1954]

Landlord and tenant — Control of Rent Ordinance, 1953, s. 15(1)(k) — Demolition — "Necessary" and "essential" — Construction — Whether person holding under agreement for a lease is an owner — Estoppel.

The plaintiff in this case claimed possession of the ground and 1st floor of No. 16 Carpenter Street occupied by the defendants. The facts of the case were shortly as follows: In 1947 the Commissioner of Lands agreed to grant a 99 years' lease from 1st May 1941 to a Madam Sim Gek Keow in respect of the premises. In 1949 Madam Sim assigned all her interest under the lease with the consent of the Commissioner of Lands to the plaintiff for a consideration of $22,000. One of the terms of the agreement for a lease from the Crown was that the existing building should be demolished and a new building constructed on the land. The building was old and in a shocking state. Notice to quit was served on the tenants but they disregarded it and remained in occupation.

Held: (1) the facts showed that what was required by common sense was that the building should be demolished and therefore this was a proper case for getting possession under s. 15(1)(k) of the Control of Rent Ordinance; (2) the plaintiff was not on the facts of this case the owner of the premises but the defendants were estopped from denying that the plaintiff was their landlord.

[Editorial Note: Control of Rent Ordinance, 1953, s. 15(1)(k) reads: "where the landlord of any premises intends to demolish the premises or any part thereof for the purpose of rebuilding on the site or part thereof and the Court is satisfied that such demolition is necessary in the interests of public health or town improvement either by reason of the condition of the building or otherwise."]

Case referred to:—

(1) *Yap Chin Min v. Loh Ah Peng* (1953) M.L.J. 65.

ACTION for possession.

John Laycock for the plaintiff.

Kenneth Gould for the defendants.

Cur. Adv. Vult.

Knight J. : — In this action the plaintiff claims possession of the ground and first floors of No. 16 Carpenter Street, Singapore, which premises are being occupied by the defendants. Notice to quit was served on the defendants on 29th March 1949 but after the expiry of the notice they remained in occupation as statutory tenants and subsequently, on 31st August 1953, a further notice to quit was served upon them; this also they disregarded and they are still in occupation and possession of the premises.

Neither the facts nor the law, in this case, are simple and as I am informed that this is the first of what may well be a series of similar cases, I propose to deal with the history of the matter in some detail.

On 17th September 1947 (the earlier transactions not being relevant) the Commissioner of Lands agreed to grant a 99 years lease (running from 1st May 1941) to a Madam Sim Gek Keow in respect of No. 16 and part of No. 15 Carpenter Street. Amongst other terms the ground rent was fixed at $597 per annum;